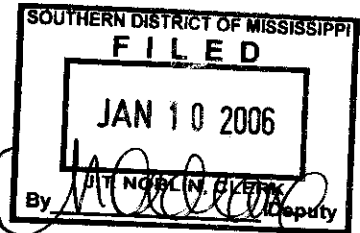


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION



EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

Plaintiff,

CITY OF MOSS POINT

Defendant.

CIVIL ACTION NO.  
1:05-CV-00427-LG-RHW

JURY TRIAL DEMAND

**CONSENT DECREE**

This action was instituted by the U.S. Equal Employment Opportunity Commission ("the EEOC" or "the Commission") on September 19, 2005, against the City of Moss Point to enforce provisions of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq. (the "ADEA"). The EEOC filed this lawsuit on behalf of Jimmy Fields, alleging that Defendant failed to hire him because of his age. The City of Moss Point denies these allegations.

B. This Consent Decree is entered into by and shall be final and binding between the EEOC and the City of Moss Point, its alderpersons, directors, officers, agents, employees, subsidiaries, affiliates, successors or assigns and all persons in active concert or participation with it, (hereinafter collectively referred to as "Defendant" or "the City of Moss Point").

C. The EEOC and the City of Moss Point agree to entry of this Consent Decree, which shall fully and finally resolve all claims the EEOC raised in its Complaint in Civil Action No. 1:05-cv-00427-lg-rhw. This Consent Decree shall not constitute either an adjudication of or finding on the merits of the complaint and shall not be construed as an admission by the City of Moss Point of any violation of the ADEA.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

**NON-DISCRIMINATION AND NON-RETALIATION**

1. This Court has jurisdiction over the parties and subject matter of this action.
2. The City of Moss Point is enjoined from failing to hire employees based on age and from discriminating against any employee or applicant for employment on the basis of age in violation of the ADEA.
3. The City of Moss Point is enjoined from engaging in any employment practices which retaliate in any manner against any person, including but not limited to Jimmy Fields, because of that person's opposition to any practice made an unlawful employment practice under the ADEA or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under the ADEA.
4. The City of Moss Point shall not divulge, directly or indirectly, to any identifiable employer or potential employer of Jimmy Fields any of the facts or circumstances related to the claims of discrimination against the City of Moss Point in this case or any of the events relating to their participation in the litigation of this action.

5. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of the City of Moss Point under the ADEA or the EEOC's authority to process or litigate any charge of discrimination now pending or filed in the future against the City of Moss Point.

#### **MONETARY RELIEF**

6. Within 10 business days after the entry of this Consent Decree, the City of Moss Point agrees to pay monetary relief to Jimmy Fields in the amount of \$92,500.00, less applicable withholdings as required by law. The check(s) will be mailed to Mr. Fields attorney, by certified mail, return receipt requested. On the same date Defendant mails the check(s) to Mr. Fields, the City of Moss Point shall send a copy of the check(s) mailed to Jimmy Fields to the EEOC, c/o Pamela K. Agee, Senior Trial Attorney, EEOC, Ridge Park Place, Suite 2000, 1130 22<sup>nd</sup> Street, South, Birmingham, AL 35205, as proof of payment. Upon the City of Moss Point's receipt of proof of delivery, the City of Moss Point shall send a copy of the return receipt to the EEOC, c/o Pamela K. Agee, Senior Trial Attorney, EEOC, Ridge Park Place, Suite 2000, 1130 22<sup>nd</sup> Street, South, Birmingham, AL 35205. No later than ten days after receipt of the copy of the check to Jimmy Fields the EEOC will provide the Defendant with the original executed Release, in the form of Exhibit 1.

#### **POSTING OF NOTICE**

7. Within 20 business days after entry of this Decree, the City of Moss Point shall post on all bulletin boards used by the City of Moss Point for communicating with employees at its facility in Moss Point, Mississippi, same-sized copies of the Notice

attached as Exhibit 2 to this Decree. The Notice shall remain posted for two years from the date of entry of this Decree. The City of Moss Point shall provide to the attention of Pamela K. Agee, Senior Trial Attorney, EEOC, Ridge Park Place, Suite 2000, 1130 22<sup>nd</sup> Street, South, Birmingham, AL 35205, confirmation of the location and date of posting within 20 business days after entry of this Decree. If posted copies become defaced, removed, marred or otherwise illegible, the City of Moss Point agrees to post a readable copy in the same manner as heretofore specified.

#### **TRAINING**

8. The City of Moss Point shall provide training on the requirements of the ADEA as follows:

(a) The City of Moss Point agrees to provide annually a four hour training session for its mayor, alderpersons, managers, and supervisors, by a trainer or vendor approved by the EEOC to provide training, on employee rights and employer obligations under the ADEA. The Commission will not object to a person or persons with experience in employment law, such as employment lawyers or personnel consultants. The training will emphasize what constitutes unlawful discrimination on the basis of age, what constitutes unlawful retaliation, and how to keep the company free from such unlawful discrimination or retaliation.

(b) The City of Moss Point shall first provide training in accordance with Paragraph 8(a) by no later than 90 calendar days after entry of this Consent Decree and also shall provide such training in calendar years 2006, 2007 and 2008.

9. The City of Moss Point shall obtain the EEOC's approval of its proposed trainer prior to each year's training sessions.

10. The City of Moss Point agrees to provide, at its expense, the EEOC with copies of all pamphlets, brochures, outlines or other written materials, if any, provided to attendees of training sessions. Even though the EEOC has approved of or designated a trainer to provide training for one year, it is not required to approve of or designate the same trainer for future training sessions.

11. The City of Moss Point shall certify to the EEOC in writing within 10 business days after the training sessions required by Paragraph 8 have occurred, that the training has taken place and that all of the required personnel have attended. Such certification shall include: (i) the dates, location and duration of the training session; and (ii) a copy of the registry of attendance, including the name and position of each person in attendance.

#### **RECORDKEEPING**

12. For a period of three years following entry of this Decree, the City of Moss Point shall document and retain in a centralized file in its Human Resources Department records of each complaint of discrimination based on age made by any employee at its facility in the City of Moss Point, Mississippi. These records shall reflect the date the complaint was made, who made the complaint, what was alleged and the actions, if any, the City of Moss Point took to resolve the matter, and shall at its expense make such records available for inspection and copying by the EEOC.

13. The City of Moss Point shall make all documents or records referred to in Paragraph 12 available for inspection and copying within 10 business days after the EEOC so requests. In addition, the City of Moss Point shall make available for interview all persons in its employ whom the EEOC reasonably requests for purposes of verifying compliance with this Decree and shall permit a representative of the EEOC to enter the

City of Moss Point's premises for such purposes on four business days' advance notice by the EEOC.

14. Nothing in this Decree shall be construed to limit any obligation the City of Moss Point otherwise may have to maintain records under the ADEA or any other law or regulation. After expiration of this Consent Decree, records will be maintained by the City of Moss Point as required by law and EEOC regulations.

#### **REPORTING**

15. The City of Moss Point shall furnish to the EEOC the following written reports annually for a period of three years following entry of this Decree with the first report due twelve months after entry of the Decree and the final report due 36 months after entry of the Decree. Each such report shall contain:

- (a) a certification by the City of Moss Point that the Notice required to be posted by Paragraph 7 was posted during the six months preceding the report; and
- (b) a certification that the City of Moss Point has complied with the training requirements of this Consent Decree.

#### **DISPUTE RESOLUTION**

16. In the event either party to this Decree believes the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within 20 days of the alleged non-compliance and afford the alleged non-complying party 20 business days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the

complaining party that it has complied within 20 business days, the complaining party may apply to the Court for appropriate relief.

**MISCELLANEOUS PROVISIONS**

17. The City of Moss Point and EEOC shall bear their own expenses, costs and attorneys' fees.

18. The terms of this Decree are and shall be binding upon the present and future representatives, alderpersons, agents, directors, officers, subsidiaries, affiliates, successors and assigns of the City of Moss Point in their capacities as representatives, agents, directors and officers of the City of Moss Point and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event any individual is found in contempt for a violation of this Decree.

19. This Consent Decree shall fully and finally resolve all claims which were alleged by the EEOC in its Complaint in Civil Action No. 1:05-cv-00427-lg-rhw.

20. This Consent Decree shall be filed in the United States District Court for the Southern District of Mississippi and shall continue in effect for three years. This Decree shall expire by its own terms three years after its entry. During this time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate its purposes. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than 30 days notice to the other party. Should any material disputes under this Decree remain unresolved after this three year period, the term of the Decree shall be automatically extended (and the Court will retain

jurisdiction of this matter to enforce the Consent Decree) until such time as all disputes have been resolved.

21. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

22. The attorneys listed below have given their permission for their electronic signatures to be affixed to this document for filing with the court.

**SO ORDERED, ADJUDGED AND DECREED** this the 10<sup>th</sup> day of January, 2006.

*s/ Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE

**FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:**

**JAMES L. LEE**

Deputy General Counsel

**GWENDOLYN YOUNG REAMS**

Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

1801 "L" Street, Northwest  
Washington, D.C. 20507

S/ Jacqueline McNair

**JACQUELINE MCNAIR**

Regional Attorney (Acting)

S/ Pamela K. Agee

**PAMELA K. AGEE**

AL Bar # ASB-1713-A52P  
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Birmingham District Office



Ridge Park Place, Suite 2000  
1130 22<sup>nd</sup> Street, South  
Birmingham, AL 35205  
Telephone: (205) 731-1299

**FOR THE CITY OF MOSS POINT:**

S/ Gary Friedman

**GARY FRIEDMAN**

MS Bar # 5532

PHELPS DUNBAR  
111 East Capitol Street  
Suite 600  
Jackson, MS 39201-3122  
Telephone (601) 352-2300

**EXHIBIT 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
v.	)	1:05-cv-00427-lg-rhw
	)	
CITY OF MOSS POINT,	)	
	)	
Defendant.	)	

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**RELEASE**

In consideration for \$ [to be negotiated], paid to me by the City of Moss Point, in connection with the resolution of EEOC v. City of Moss Point, Civil Action No. 1:05-cv-00427-lg-rhw, I waive my right to recover for any claims of failure to hire based on age arising under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq. (the "ADEA") that I had against the City of Moss Point prior to the date of this release and that were included in the claims alleged in EEOC's complaint in EEOC v. City of Moss Point.

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
James Fields

Sworn to and Subscribed  
Before me this     day  
of             , 2005

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

**EXHIBIT 2**

**NOTICE TO ALL CITY OF MOSS POINT EMPLOYEES**

The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq. (the "ADEA") prohibits discrimination against employees and applicants for employment age 40 or older based upon age. The ADEA further prohibits retaliation against employees or applicants who avail themselves of the rights under the ADEA by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in an EEOC investigation. The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce the ADEA.

In a lawsuit, the EEOC alleged that the City of Moss Point failed to hire an individual based on his age. The City of Moss Point denied these allegations. To resolve the case, The City of Moss Point and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) the City of Moss Point pay monetary relief; (2) the City of Moss Point shall not discriminate on the basis of age; (3) the City of Moss Point shall not retaliate against any person in violation of the ADEA or because the person asserted any rights under the Consent Decree; and (4) the City of Moss Point will provide training.

If you believe you have been discriminated against, you may contact the EEOC at (205) 731-1299. The EEOC charges no fees and has employees who speak languages other than English.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

This Notice must remain posted for two years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to the: Regional Attorney, EEOC Birmingham District Office, Ridge Park Place, Suite 2000, 1130 22<sup>nd</sup> Street, South Birmingham, AL 35205.

\_\_\_\_\_  
U.S. Equal Employment Opportunity  
Commission

\_\_\_\_\_  
City of Moss Point

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_